

THE WIPO INTERGOVERNMENTAL COMMITTEE ON
INTELLECTUAL PROPERTY AND GENETIC RESOURCES,
TRADITIONAL KNOWLEDGE AND FOLKLORE

Thirteenth session
Geneva, October 13 to 17, 2008

Agenda item 11: Future work

Statement by the Indigenous Peoples' caucus

Thank you Mr. Chairperson,

This statement is on behalf of the Indigenous Peoples' caucus. Allow us first to join others and congratulate you and the co-chairs on your election. We also take this opportunity to extend our congratulations to Dr. Gurry for his appointment as Director General of WIPO. The indigenous peoples are confident that your skills, experience and expertise will guide WIPO in the right direction and we are particularly hopeful that Dr. Gurry in his capacity as Director General will be able to assist the IGC to successfully conclude its work.

Mr. Chairperson,

Indigenous peoples have opted to listen more than repeating positions on the material issues at this session. We believe that the time for general debate is over. The excellent gap analysis prepared by the International Bureau mark a logical end to the exchange of views on general positions. The time is now more than ripe for the IGC to move into the next stage; negotiations in detail on the design of a protection system for TCEs, TK and GR. The Indigenous Peoples' caucus reiterates its commitment to work with other delegations to reach agreement on a legally

binding instrument protecting this subject matter. This must be the end goal of this process.

Mr. Chairperson,

The Indigenous Peoples' caucus joins the African Group and other delegations, and agrees that such work cannot effectively be carried out in the IGC alone. There is a need for inter-sessional meetings. We therefore support the African Proposal on inter-sessional work mapped out in Document 13/10. Should the agreement be on less than the suggested five issues to be considered by the expert groups, the issues "Prior informed consent, Rights" and "Beneficiaries" should be prioritized. We are also in agreement with the suggested terms of references, underlining that building on the precedent from the roadmap agreed upon in the similar negotiations on an ABS regime under the auspices of the CBD, the number of expert observers nominated by indigenous peoples should allow for representation of all seven indigenous geopolitical regions recognized by the UN. We emphasize that the function of the task force, as well as the elaborated proposals presented this morning, are to provide expert advice to the IGC as a whole. Accordingly, we do not support the concept of an open-ended group, because this would simply recreate the IGC. We support a smaller, balanced and transparent group that could report to the IGC as a whole.

Mr. Chairperson,

The Indigenous Peoples' caucus would also like to thank the African Group for its analysis of divergence and convergence within the IGC, as well as suggested ways forward, contained in Document 13/9. This analysis is very helpful to the process. We think it would bring our work forward if delegations commented on the analysis in Document 13/9, contributing more analysis to it. The Indigenous peoples' caucus stands ready to engage in such discussions anytime. We generally find the suggested way forward on the various issues acceptable as a sound base for negotiations. Already in the outset, however, we have to stress that the notion under Issue 2 (p. 3 and 13 respectively) - "Beneficiaries" - that the state should act as

custodian of TCEs and TK is absolutely unacceptable to us. Indigenous peoples' TCEs and TK can only be managed by others subject to the free, prior and informed consent of, and revocable upon notice by, the indigenous people in question, given in accordance with their customary norms and protocols.

Thank you Mr. Chairperson and friends of the Chair.